IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3005 OF 2004

Yamunabai Krishnat Bhamtekar, through
Power of Attorney Holder:
Krishnat Dadu Bhamtekar : Petitioner

V/s.

Sitaram Dadu Bhamtekar & Ors. : Respondents

...

Mr.A.A.Kumbhakoni with Mr.A.M. Kulkarni for the petitioner.

Mr.D. Taur i/b. Ms Varsha Palav for the respondents.

...

CORAM : S.A. BOBDE, J.

February 21, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Taur, learned counsel, appears and waives service of rule on behalf of the respondents.

Heard by consent.

2. The petitioner has filed a suit and claimed an injunction restraining the respondents from constructing

on the Eastern portion of gat no.1111. This injunction has been refused by the trial Court as well as by the appellate Court. The Courts below have found that it is an admitted position that there is a partition between the petitioner and the respondents. However, the petitioner's case has been prima facie not accepted on the ground that there is no evidence that the petitioner is in possession of 19 R. land on the south-eastern portion of gat no.1111 which is to the East of the Government road. The Courts below have found that the petitioner is in possession of the entire frontage adjacent to the Government road which came to his share and not to the portion over which he claims an injunction. There is no error of law apparent on the face of the record.

3. In the result, there is no merit in the Petition which is hereby dismissed. The rule stands discharged.

Sd/-

S.A. BOBDE, J.